



HAGENS BERMAN

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October 29, 2014

The Honorable Jennifer C. Boal  
United States Magistrate Judge  
District of Massachusetts  
John Joseph Moakley Federal Courthouse  
1 Courthouse Way, 5th Floor  
Boston, MA 02210

Re: *In re New England Compounding Pharmacy, Inc. Products Liability Litigation*,  
Master Dkt.: 1:13-md-02419-FDS; MDL No. 2419

Dear Judge Boal:

I write in response to the Court's October 27, 2014 order requesting the PSC indicate whether and why the PSC's October 23, 2014 letter, or portions thereof, should remain ex parte and/or under seal.

The October 23, 2014 letter included a detailed description of the bankruptcy plan (the "Plan") and the process that is expected to be set out in the Plan. Included in the letter is a detailed description of the current draft matrix, the point system proposed to be used to determine claim amounts to be paid under the proposed process as well as the proposed appeal process. The PSC felt that this level of detail was necessary in order to explain the potential role that the PSC was asking Your Honor to fill.

The PSC does not believe that the contents of our October 23, 2014 letter should be kept from the public. But, as a technical matter, while the Trustee and Creditors' Committee are well versed in the details of the current draft Plan and the PSC has shared the broad strokes of the draft Plan with plaintiffs' lawyers, the details of the procedural process and the final terms of the compensation matrix are not yet publicly known. Some aspects of the Plan and the final terms of the matrix are also still in draft form. The details included in the letter are, to be sure, very close to what the PSC believes will be ultimately filed by the Trustee, but, until it is filed, there is the possibility some details will change.

It should also be noted that the Plan, the matrix and other supporting materials, even once publicly filed, are subject to change until they are ultimately approved by the Bankruptcy Court.

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The Trustee has expressed to the PSC a desire to keep the information shared in the letter to the Court confidential until he files the Plan – expected to be in about 3 weeks' time. We shared with the Trustee the Sealed Order announcing the intent to make the October 23, 2014 letter publicly available. The Trustee advised us that he would prefer that the letter not be published until after the Plan is filed with the Bankruptcy Court.

The PSC thus fully supports publicly disclosing the October 23, 2014 letter, but respectfully requests that the Court not place the letter on the public docket until after the Trustee has filed the Plan. The PSC will advise the Court as soon as the Plan has been filed.

Alternatively, if the Court feels it necessary to place the letter on the docket prior to the filing of the final Plan, the PSC strongly suggests that the Court file on the docket a redacted version of the October 23, 2014 letter. The PSC has included herewith a suggested redaction of the October 23, 2014 letter. The included version of the letter redacts those portions of the letter that divulge details that are not yet public, and that are subject to change prior to the filing of the final Plan, and supporting documentation, with the Bankruptcy Court.

Sincerely,

**/s/ Kristen A. Johnson**

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*Plaintiffs' Lead Counsel*

Cc: The Honorable Rya W. Zobel